

Abdul Samad Ra'oof Shabazz and Jacqueline Craig, a Co-Partnership d/b/a Michigan Expediting Service; Michigan Expediting Services, Inc.; Action Express, Inc.; and Vincent Express, Inc. and Ewan Greig and Local 299, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO. Cases 7-CA-25514 and 7-CA-25533

December 28, 1990

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
CRACRAFT AND OVIATT

On November 20, 1986, the National Labor Relations Board issued a Decision and Order in this proceeding,¹ directing the Respondents, inter alia, to make whole employees for losses resulting from its unfair labor practices. The United States Court of Appeals for the Sixth Circuit enforced the Board's Order in full on February 17, 1989.² On March 19, 1990, the Regional Director for Region 7 issued a compliance specification and notice of hearing, alleging that a controversy had arisen over the amount of backpay due the discriminatees under the terms of the Board's Order, and notifying the Respondents that they must file a timely answer complying with the Board's Rules and Regulations.

On September 6, 1990, the Regional Attorney served the compliance specification and notice of hearing again by certified mail because it was not clear that proper service had been made on all the necessary parties. The accompanying letter advised the Respondents that they had until September 27, 1990, to file an answer that complied with the Board's Rules and Regulations. The letter also advised that if the Respondents failed to submit a timely answer, the General Counsel would file a Motion for Default Judgment that, if granted, would result in all the allegations in the compliance specification being deemed admitted as true.

The Respondents filed for bankruptcy on December 13, 1988, in the United States Bankruptcy Court for the Eastern District of Michigan, Southern Division. On September 17, 1990, the attorney for the Respondents' trustee in bankruptcy mailed the Regional Attorney a letter in response to the September 6, 1990 service of the compliance specification. The letter stated that the trustee had no objection to any of the pleadings, provided that interest was not charged after the filing of the Respondents' bankruptcy petition. Despite proper service of the compliance specification and notice of hearing, no answer to the compliance specifica-

tion, other than the letter from the trustee's attorney, has been filed.

On November 19, 1990, the General Counsel filed with the Board in Washington, D.C., a Motion to Transfer Case to the Board and for Judgment on the Pleadings. On November 21, 1990, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the General Counsel's motion should not be granted. The Respondents have filed no response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

On the entire record in this case, the Board makes the following

Ruling on Motion for Judgment on the Pleadings

Section 102.56(b) and (c)³ of the National Labor Relations Board's Rules and Regulations states:

(b) *Contents of answer to specification.*—The answer shall specifically admit, deny, or explain each and every allegation of the specification, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. Denials shall fairly meet the substance of the allegations of the specification at issue. When a respondent intends to deny only a part of an allegation, the respondent shall specify so much of it as is true and shall deny only the remainder. As to all matters within the knowledge of the respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial shall not suffice. As to such matters, if the respondent disputes either the accuracy of the figures in the specification or the premises on which they are based, the answer shall specifically state the basis for such disagreement, setting forth in detail the respondent's position as to the applicable premises and furnishing the appropriate supporting figures.

(c) *Effect of failure to answer or to plead specifically and in detail to backpay allegations of specification.*—If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate. If the respondent files an answer to the specification but fails to deny any allegation of the specification in the manner required by para-

¹ 282 NLRB 210.

² Enfd. mem. sub nom. *NLRB v. Shabazz*, 869 F.2d 1492.

³ Formerly Sec. 102.54(b) and (c). The Board amended its rules governing compliance proceedings effective November 13, 1988. The substance of former Sec. 102.54 has been incorporated into Sec. 102.56 as revised.

graph (b) of this section, and the failure so to deny is not adequately explained, such allegation shall be deemed to be admitted to be true, and may be so found by the Board without the taking of evidence supporting such allegation, and the respondent shall be precluded from introducing any evidence controverting the allegation.

The cover letter for the second service of the compliance specification on the Respondents states

[A]ny party wishing to submit an answer to the Compliance Specification and Notice of hearing must do so within 21 days of the September 6, 1990 date of this letter, that is, no later than September 27, 1990. . . . [T]o the extent that such Answer fails to deny allegations of the Specification in the manner, [sic] required under the Board's Rules and Regulations, and the failure to do so is not adequately explained, such allegations shall be deemed to be admitted to be true and the respondent shall be precluded from introducing any evidence controverting them.

The letter filed by the attorney for the Respondents' trustee in bankruptcy raises no objection to any of the pleadings contained in the compliance specification, except to the extent that the compliance specification may seek interest for any time subsequent to the filing of the Respondents' bankruptcy petition. The compliance specification, however, appears to provide for interest payments only through December 12, 1988. The Respondents filed their petition for bankruptcy on December 13, 1988. We therefore find that the letter filed by the attorney for the trustee does not contest any of

the facts regarding the payments sought by the compliance specification.⁴

As the Respondents have not filed an answer contesting the allegations in the compliance specification and have not offered any explanation for their failure to do so, in accordance with the rules set forth above, the allegations of the specification are deemed to be true and we so find without taking evidence in support of the allegations. Accordingly, we grant the General Counsel's Motion for Judgment on the Pleadings, conclude that the net backpay due the discriminatees is as stated in the computations of the specification, and order that payment be made by the Respondents as set forth below.

ORDER

The National Labor Relations Board orders that the Respondents, Abdul Samad Ra'oof Shabazz and Jacqueline Craig, a co-Partnership d/b/a Michigan Expediting Service; Michigan Expediting Services, Inc.; Action Express, Inc.; and Vincent Express, Inc., Detroit, Michigan, their officers, agents, successors, and assigns, shall make whole each of the employees named below by payment to them of the amounts set forth adjacent to their names, less all tax withholding as required by Federal, state, and municipal laws.

Ewan Greig	\$11,696.94
William Moss	11,696.94

⁴ Any subsequent controversy regarding interest payments for the period after December 13, 1988, may be addressed in further compliance proceedings in this matter.